

HOUSE
RESEARCH

ORGANIZATION bill analysis

6/6/90

SB 1
Parker, et al.
(Glossbrenner)

SUBJECT: Public-education financing and administration revisions

COMMITTEE: Public Education: favorable, without amendment

VOTE: 6 ayes--Glossbrenner, Colbert, Arnold, Berlanga, Edge,
Grusendorf

1 nay--G. Luna

2 absent--Hammond, Schoolcraft

SENATE VOTE: On final passage, June 5 -- 29-1 (Uribe)

WITNESSES: For-- Bill Grusendorf, president, Texas Association
of Rural Schools; Rep. Renato Cuellar

Against--None

BACKGROUND: On Oct. 2, 1989 the Texas Supreme Court, ruling
in Edgewood ISD v. Kirby, found the Texas school-
finance system unconstitutional. The court gave the
state until May 1, 1990 to enact a constitutional plan.

On April 26, during its fourth called session, the
Legislature approved SB 1 by Parker, which would have
appropriated an additional \$555 million in fiscal 1991
for a revised school-finance system. To finance the
SB 1 appropriation, the Legislature approved bills that
would have transferred money to public education from
various agencies and the Rainy Day Fund and HB 150,
which would have raised an estimated \$443.8 million in
new revenue by increasing the state sales-tax rate from
6.0 percent to 6.5 percent. Gov. Bill Clements vetoed
HB 150 on May 1. Since the Comptroller's Office was
unable to certify that state revenues were sufficient
to cover the appropriation that SB 1 would have made
(as required by Art. 3, sec. 49a of the Texas
Constitution -- the "pay-as-you-go" requirement), SB 1
was returned to the Legislature and treated as if it
never passed.

On May 1 state Dist. Judge F. Scott McCown of Austin
extended until June 1 the deadline for the state to
submit a school-finance plan, staying temporarily an
injunction barring distribution of state aid through
the Foundation School Program. The judge later

appointed a special master, former Supreme Court Justice William Kilgarlin, to propose a school-finance plan that might be imposed by court order if no plan were adopted by the Legislature and signed by the governor.

On May 15, during its fifth called session, the Legislature passed another school-finance bill, also designated SB 1 by Parker, which also would have been financed by a 0.5 percent increase in the sales-tax rate and by budget transfers. The governor vetoed SB 1 on May 22. The Senate by 23-8 voted on May 23 to override the governor's veto, but on May 29 the motion to override failed by 92-55 in the House, short of the 100 votes (two-thirds of the membership) required. Since HB 129, the sales-tax increase approved by the Legislature, was contingent on final approval of SB 1, it could not take effect. A separate bill, SB 56, appropriating \$555 million to fund SB 1, died when the Senate did not act on a House amendment.

On June 1, at a hearing called by Judge McCown, the court-appointed master made public a draft of a school-finance plan that would redistribute the current appropriation for state aid to local school districts for the 1990-91 school year. The judge stated that at the next scheduled hearing on June 25 he would consider any legislative plan signed into law by June 21 and effective by the beginning of the school year Sept. 1. If a law has been enacted, the court will consider whether it complies with the Supreme Court's requirements. If a law has not been enacted by June 21, the master will offer for the court's consideration the final draft of his plan.

(For a detailed explanation of how the current school-finance system functions, see House Research Organization Special Legislative Report No. 157, An Introduction to School Finance, Feb. 23, 1990. The explanation is summarized below.)

The Foundation School Program -- first tier

The bulk of state support for public education is provided through the two tiers of the Foundation School Program (FSP). The amount of FSP aid a district gets from the state depends on the district's wealth, tax rate, size and type of students. Local districts levy taxes to raise a share of the FSP and may raise

additional revenue to enrich their programs and to retire bonds issued to finance school facilities.

Basic allotment. The first tier of FSP funding is intended to guarantee each district enough money to provide a basic education program. The amount distributed to each school district is determined by statutory formulas that start with a basic per-pupil allotment, set at \$1,477 for the 1989-90 school year and \$1,500 for 1990-91.

The basic allotment is adjusted by a "price differential index" (PDI) to reflect geographic variations in costs. The basic allotment also may be adjusted by a small-district or sparse-area adjustment, if applicable.

The basic allotment, adjusted by the PDI (and the small-district or sparse-area adjustment, if applicable), is multiplied by a district's average daily attendance to determine a basic per-pupil entitlement. The state share of the basic entitlement is distributed to school districts as a block grant for operating costs.

Weighted pupil allotments. Districts receive extra money for students in vocational education, special education, programs for the gifted and talented and for compensatory and bilingual education.

The distributions for vocational education and special education are determined by multiplying the number of students in each special program by a "weight" assigned to each program. A vocational-education student is given a weight of 1.45. A special-education student is given a weight determined by the student's instructional arrangement, ranging from 2.00 to 7.11.

The program weights for other special categories are "add-ons" that are less than 1.00 per student and are added to the basic entitlement received by a district. The weight for bilingual education is 0.10 per student, the weight for compensatory education (for children in the national school lunch program) is 0.20, and the weight for children in a program for gifted and talented students is 0.047 for the 1989-90 school year and 0.12 thereafter.

Local share. The basic ("first tier") FSP cost equals the sum of the basic entitlement block grant, the special-program allotment based on student weights, career ladder allotments ("merit" teacher-salary supplements), and transportation allotments. Local districts pay a share of this amount, called the local fund assignment.

Every district must levy property taxes at a minimum rate in order to receive state aid. The minimum property-tax rate for local districts is calculated by figuring the rate that, if imposed by every school district in the state, would raise enough revenue to cover a specified percentage (now 33.3 percent) of the total statewide cost of the FSP. For the 1989-90 school year, the minimum tax rate is 34 cents per \$100 of property value.

The total amount of revenue raised locally by all school districts in the state at the minimum tax rate equals 33.3 percent of the total cost of the FSP. However, the percentage of its FSP cost paid by each district varies widely, depending on how much revenue the minimum tax yields when levied on property within the district. Each district's local fund assignment -- the amount of revenue it can raise at the minimum tax rate -- is subtracted (along with its Available School Fund distribution) from the district's FSP cost. The remainder is paid by the state.

Since property-poor districts can raise less per student with a 34-cent tax rate than richer districts, the state pays a larger percentage of their FSP. About 73 of the state's approximately 1,060 school districts are "budget-balanced" -- they receive no FSP aid from the state because their property value per student is high enough that a 34-cent tax rate raises enough revenue to pay for their entire local share of the foundation program.

Second tier of the FSP -- the Guaranteed Yield Program

The state offers a second tier of aid under the Foundation School Program: equalization funding distributed through the Guaranteed Yield Program to help property-poor districts enrich programs. The program guarantees each district a specified amount per weighted student in state and local funds, for each cent of tax effort over that required for the local

fund assignment, up to a specified maximum level. Additional taxes beyond those required to meet the local fund assignment are known as the "district enrichment tax rate."

If the district enrichment tax rate yields less than the guaranteed amount (currently \$18.25 per weighted student per one cent of tax), the state makes up the difference. The revenue from each cent of tax effort over the tax rate required for the local fund assignment (34 cents per \$100 property valuation in 1989-90), up to 36 cents in additional tax effort (to a total maximum tax rate of 70 cents) is matched by the state under the Guaranteed Yield Program. Tax effort greater than 70 cents per \$100 is not matched by the state. Money received under the Guaranteed Yield Program, unlike first-tier FSP allocations, may be used for capital outlays and debt service.

The number of weighted students used in calculating the second-tier guaranteed-yield allotment does not include all the weights used in calculating the first-tier distribution. The "program weights" (for vocational education, special education, programs for the gifted and talented and for compensatory and bilingual education) are fully considered. However, only half the adjustments for the PDI and small districts are included in the guaranteed-yield calculation. The allotments for career ladder supplements and transportation are not included in the calculation.

Proration of state aid

HB 72 (1984) established a "sum certain" ceiling on state costs under the Foundation School Program. If the total state share of the FSP, as determined by the formulas governing the program, is greater than the total amount appropriated by the Legislature to the FSP for that year, each district's allocation of state funds must be reduced according to a formula adopted by the State Board of Education. The board must consider each district's taxable property value, its effective tax rate, its amount of delinquent taxes and any other factors the board considers relevant.

The formula adopted by the board in November 1989 requires a proportionately smaller reduction in allocations to districts with low wealth and high tax effort and a proportionately greater reduction for

districts with high wealth and low tax effort. (Tax effort, or effective tax rate, reflects actual tax collections per \$100 of taxable property value. The effective tax rate is used in place of the listed tax rate, to take into account delinquent taxes and variations in assessment ratios.) Of districts with equal property value, the district with the greater tax effort would bear a lower prorated reduction in state aid per student. Of districts with equal tax effort, the district with the lower taxable property value per student would bear the lower prorated reduction per student.

Governance of education

The 15-member State Board of Education, elected from single-member districts for staggered four-year terms, is the primary policy-making body for public education. The board adopts rules implementing legislation and selects (and may dismiss at will) the commissioner of education, who is the executive officer of the Texas Education Agency (TEA).

The Legislative Education Board (LEB) is composed of the lieutenant governor, the speaker, the chairs of the House Public Education Committee, Senate Education Committee, House Appropriations Committee and Senate Finance Committee, two representatives appointed by the speaker and two senators appointed by the lieutenant governor. The LEB reviews the implementation of legislative education policy by the SBOE and TEA.

The Foundation School Fund Budget Committee (FSFBC) -- composed of the governor, lieutenant governor and comptroller -- estimates the amount of money to be placed in the foundation school fund to finance the Foundation School Program for each two-year budget period.

The Educational Economic Policy Committee has nine members. The governor, lieutenant governor and the speaker each appoint two members, and the governor appoints three members from the boards of regents of universities participating in the Educational Economic Policy Center (a university consortium that examines the efficiency of the public-school system and the effectiveness of instructional methods and curricular programs).

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DIGEST:

SB 1 would revise the public-education finance system, starting in the 1990-91 school year, change the structure of state education administration, add several education-accountability measures and make other changes in laws governing public schools. The bill would take effect Sept. 1, 1990, unless otherwise indicated.

SB 1 would make no appropriation. (The appropriation for SB 1 is included in Article 2 of SB 11 by Brooks and Caperton, which the Senate approved on June 5.) The Legislative Budget Office estimates the cost of the funding formulas proposed by the bill, if fully funded, at \$528 million for fiscal 1991.

Finance provisions -- Article 1

Basic allotment. The basic per-student allotment, used to calculate the first tier of the Foundation School Program, would be increased from the \$1,500 currently scheduled for the 1990-91 school year to \$1,910 for 1990-91. In subsequent years the allotment would be \$2,128 or, beginning with the 1993-94 school year, an amount adopted by the Foundation School Fund Budget Committee (FSFBC).

Starting in 1993-94, the basic allotment would be calculated to represent the cost per student of a regular education program that met the basic criteria for an accredited program meeting all legal and regulatory mandates.

Local fund assignment. The local fund assignment, currently 33.3 percent of the FSP statewide, would be raised to 41 percent for the 1990-91 school year. Thereafter, the local fund assignment would be the amount raised by a tax rate of 70 cents per \$100 of property value or, in 1993-94 and 1994-95, a rate adopted by the FSFBC.

Although the local fund assignment would be based on a 70-cent tax rate, starting in 1991-92, the minimum tax effort required for a district to receive FSP aid (currently 34 cents per \$100 of property valuation) would not rise to 70 cents until 1994-95. The minimum tax effort would be 54 cents per \$100 of property valuation for the 1991-92 and 1992-93 school years and 62 cents for 1993-94.

Guaranteed yield. The guaranteed state-local yield for each cent of tax rate above the rate required for a district's local fund assignment would be reduced from the current \$18.25 per weighted student to \$17.90 for 1990-91, then increased to \$26.05 per weighted student or, starting in 1993-94, an amount adopted by the FSFBC.

The method of calculating the number of weighted students for the guaranteed yield program -- which currently includes full program weights, half of the price differential index (PDI) and small-district adjustments, and no career ladder or transportation allotments -- would be changed to include the full small-district adjustments but half the PDI.

Starting in 1991-92, the LEB and FSFBC would calculate the guaranteed yield per penny per student, making it equal to the yield of the district that falls at the 90th percentile in a rank-ordering of districts by property wealth per weighted student.

District enrichment tax rate. The district enrichment tax rate -- the tax rate above the mandatory local-fund-assignment tax rate for which the yield would be guaranteed by the state -- would be increased from the current 36 cents per \$100 of property valuation to 37 cents per \$100 for the 1990-91 school year. The rate would be set at 48 cents thereafter or, starting in 1993-94, at a rate adopted by the FSFBC.

The maximum amount of state and local revenue per student guaranteed under the two tiers of the Foundation School Program would equal the accountable costs of exemplary programs, as determined by state studies, starting in 1993-94. The cost of facilities and equipment would be included in accountable costs until a funding formula for capital outlay and debt service was adopted.

This "maximum guaranteed level of qualified state and local funds per student" -- in effect, the maximum state and local Foundation School Program revenue guaranteed per student -- would, for 1993-94 and 1994-95, be at least 95 percent, but not more than 100 percent, of the revenue per weighted ADA of the district at the 95th percentile of state and local revenue per pupil. (The 95th-percentile district would mark the point at which 95 percent of the students in

the state are in districts with state and local revenue per pupil equal to or less than that of the 95th-percentile district.)

Four-year phase-in of district enrichment tax rates
Districts that have a district enrichment tax rate (DTR) of less than 48 cents per \$100 valuation for the 1990-91 school year would have limited eligibility for a guaranteed yield for school years 1991-92, 1992-93 and 1993-94. For 1991-92, a district's maximum enrichment tax rate would be its 1990-91 enrichment tax rate plus 25 percent of the difference between the maximum tax rate (48 cents per \$100 valuation) and the district's 1990-91 rate. For 1992-93, the district enrichment tax rate would be the district's 1990-91 rate plus 50 percent of the difference. For 1993-94, the maximum enrichment rate would be the district's 1990-91 tax rate plus 75 percent of the difference.

Four-year phase-in of state aid changes. Each district's increase or decrease in state aid per student because of the changes made by SB 1, compared to what it would receive in the 1990-91 school year under current law, would be phased in over four years. For the 1991-92 school year, the actual change in state aid would be 25 percent of the change that otherwise would have occurred; for 1992-93, the actual change would be 50 percent; for 1993-94, 75 percent or a percentage set by the FSFBC.

"Hold harmless" provision. No district would receive less state aid for the 1990-91 school year than it would have received under current law, except for the effect of the change to full-year ADA (see page 10).

Setting funding elements -- LEB calculation. The Legislative Education Board (LEB) would be required to adopt rules, after notice and public comment, for the calculation of the funding elements, starting with the 1993-94 school year. The LEB would calculate the basic allotment, the maximum level of revenue under the guaranteed-yield program, and the local-fund-assignment and guaranteed-yield tax rates. The LEB also would calculate a cost-of-education index designed to reflect the geographic variation of costs that are beyond the control of school districts (the index would replace the PDI and small-district adjustment), funding formulas for capital outlay and debt service, and appropriate program-cost differentials (including

programs currently covered by program weights). The program cost-differentials would be expressed both as weights applied to the basic allotment for the appropriate year and as dollar amounts.

Setting funding elements -- FSFBC adoption. The Foundation School Fund Budget Committee, after notice and public comment and after consideration of the LEB report, would adopt the six funding elements by Nov. 1 before each regular session of the Legislature, starting in 1992.

Setting funding elements -- fiscal neutrality . The six funding elements would be selected to make the public-school finance system fiscally neutral, providing substantially equal access to similar revenue per student at similar tax effort. The finance system would adhere to the principles that at least 95 percent of students would live in districts where the yield of state and local educational program revenue per pupil per one-cent of effective tax effort was not statistically significantly related to the district's taxable wealth per student and that equalization would be established for state and local revenue sufficient to efficiently operate and administer appropriate educational programs and provide adequate facilities and equipment.

Non-binding on future legislatures. Future legislatures would be free to use other methods, including those involving minimum tax effort or redefinition of the tax base, to achieve substantially equal access to similar revenues per student at similar tax efforts.

Full-year average daily attendance (ADA). Average daily attendance (ADA) of students for the purpose of calculating state aid would be determined by the daily attendance as averaged each month of the school year. (Under current law, ADA is determined by the best four weeks of eight weeks of attendance selected by the State Board of Education.) For the 1990-91 school year, the ADA could not be less than 98 percent of the ADA under the current definition.

A school district that lost more than 2 percent of its ADA because of a military-base closing or personnel-reduction would be funded according to its

ADA for the preceding school year. (Current law does not adjust ADA for military cutbacks.)

Vocational-education student weights. The weights providing extra funding for students in vocational education programs would be limited to students in grades nine through 12 (except for certain programs for handicapped students). The weight for students in vocational education programs would be reduced from the current 1.45 to 1.37. The commissioner of education would conduct a cost-benefit comparison between vocational education programs and math and science programs.

Accountable cost studies. The LEB and LBB, with the assistance of the Educational Economic Policy Center and the TEA, would be required to conduct biennial studies of certain accountable costs and financing formulas. These studies would be designed to provide a research basis for the adoption by the FSFBC of the funding elements necessary to meet the state policy goals for the school-finance system. In determining accountable costs, the LEB and LBB would not include the costs of cocurricular and extracurricular programs and would consider the results of the efficiency-in-administration report conducted by the commissioner of education.

The biennial studies would include a study of the fiscal neutrality of the finance system, the accountable costs per student of providing programs that meet accreditation criteria and legal and regulatory provisions (the criteria for the basic allotment), a cost-of-education index designed to reflect the geographic variation in costs due to factors beyond the control of school districts, the extra cost of high-cost courses or programs (with the program funding level expressed as weights applied to the basic allotment and as dollar amounts), the transportation and career ladder allotments, the accountable costs per student of exemplary programs, the levels of tax effort necessary for each tier of the FSP, and capital outlay and debt service requirements. All cost studies would include only costs necessary for operation, maintenance and administration and costs necessary for adequate facilities and equipment.

The statistical measures used for calculating fiscal neutrality would be recommended by an impartial panel

of statistics experts appointed by the LEB and LBB. The cost-of-education index study would be based on models that consider the effect on costs of a district's region, size, area, density, educational characteristics and economic conditions. The index would adjust only for specific variations in the cost of resources that were caused by factors beyond the control of school districts, excluding factors addressed by other formula adjustments in the Foundation School Program. The study of program costs would consider the effect of class size, laboratory expenses, materials, equipment, teacher training, necessary salary supplementation and special services.

The studies of program costs, the cost-of-education index and facilities and debt service would be completed by Jan. 1, 1991. In addition, studies on the impact of year-round average daily attendance (ADA), mechanisms for funding vocational education, and the cost of serving at-risk students would be completed by the LEB and LBB by January 1991.

Adoption of the COE index and cost differentials. The cost-of-education index, which would be developed jointly by the LEB and LBB, would be submitted to the FSFBC for adoption beginning with the 1991-92 school year. The program-cost differentials, which would be developed jointly by the LEB and LBB, would be submitted to the FSFBC for adoption beginning with the 1992-93 school year. If the FSFBC failed to adopt the program-cost differentials by April 1 for the following school year, the commissioner of education would adopt program-cost differentials. Beginning with the 1992-93 school year, if the cost-of-education index and program-cost differentials were not adopted by the FSFBC or the commissioner of education, the amount of revenue guaranteed under the guaranteed-yield program would be calculated according to an amount per student, rather than an amount per weighted student, and according to average daily attendance (ADA), rather than weighted average daily attendance (WADA).

Efficiency-in-administration report. The commissioner of education would conduct a study of the best way for reporting and monitoring administrative efficiency by school districts in allocating their administrative costs, including administrator-to-teacher ratios, and a description of average efficient administrative

expenditures by districts, considering district size and demographics.

Emergency school-facility grants. In 1991-92 the Bond Review Board could make emergency grants to school districts for capital assets and instructional facilities and to pay debt service, if funds were appropriated for that purpose. Preference would be given to districts with inadequate property wealth to meet program and debt-service demands.

Impact statement by LBB. The Legislative Budget Board would prepare an "equalized education impact statement" for each bill affecting public education. The statement would evaluate the effect of the bill on state equalized funding requirements and policies.

Miscellaneous finance provisions. The weight for pregnant students in remedial and support programs would be increased from 2.0 to 2.41, effective Sept. 1, 1991.

Compensatory-education funds would have to be used to supplement programs and services funded under a district's regular education program.

Starting by 1994-95, the general appropriations bill would include the funding elements adopted by the FSFBC. The program-cost differentials would be reported in dollar amounts per student.

SB 1 specifies that Foundation School Program aid could be used for programs, services, facilities and equipment.

Starting immediately, the TEA would introduce management and leadership training programs for administrators.

Finance-system changes -- Article 3

Technology Fund. Effective Sept. 1, 1992, a Technology Fund would be created from which districts would receive \$30 per student for the 1992-93 school year, \$35 for 1993-94, \$40 for 1994-95, \$45 for 1995-96 and \$50 for 1996-97 and thereafter, with expenses shared by the state and the local district in the same proportions as the FSP. The allotment could be used to acquire technological equipment and services and to

research and develop emerging instructional technology, with at least 75 percent of the money in each district used for classroom instructional services and programs. To be eligible for an allotment, a district would be required to file with the TEA and the Department of Information Resources a five-year plan for use of the allotment and report annually on how the allotment was used to train personnel.

Prekindergarten for three-year-olds. Starting in the 1991-92 school year, children could enroll in prekindergarten at age three, rather than four, and would be included in student counts for calculating the Available School Fund. A district would be required to apply for funding for three-year-olds to the commissioner of education, who would approve applications if there were at least 15 eligible children in the district.

The commissioner of education, in consultation with the commissioner of human services, would monitor the developmental appropriateness of pre-K programs, evaluate the potential for coordinating pre-K programs with government-funded early childhood care and education programs, and investigate the use of existing child-care program sites as pre-K sites.

Placement on teacher salary schedule. In determining placement of a teacher on the salary schedule, the teacher would be credited for each year of experience, whether or not the years were consecutive, as long as the placement was not above the step where the teacher would have been placed if the teacher had remained in continuous service.

School accounting systems Each school district would use a uniform accounting system adopted by the commissioner of education for data to be reported for the Public Education Information Management System.

School-employee health insurance. The commissioner of education, Teacher Retirement System and State Board of Education would recommend a state health insurance plan for public-school employees by Feb. 1, 1991.

Nonacademic programs. A special study committee, appointed by the governor, lieutenant governor and speaker, would by Jan. 1, 1991 develop a plan to coordinate youth services into a community effort and

remove nonacademic problems of youth from school responsibility.

Energy conservation. A school board would be permitted to enter into a multi-year contract for energy conservation measures, on a request-for-proposal basis, as long as the savings in energy and operating costs over 10 years would be greater than the cost of the contract.

Non-financial "efficiency" measures -- Article 3

Innovative programs. Innovative programs, for which the SBOE currently may waive state laws or rules for a limited number of districts, would be developed instead by school campuses and selected on a competitive, peer-review basis by the Program Advisory Committee appointed by the Educational Economic Policy Committee. Final program approval would be granted by the SBOE and, if a program required the expenditure of state funds, by the LEB. Campus applications would have to be approved by the district's school board.

Campuses with approved innovative programs could receive disbursements from a new Public Education Development Fund. Seventy percent of the money disbursed would be for projects designed to improve the academic achievement of low-performing students, with priority given to projects submitted by low-performing campuses.

SB 1 lists 24 topics for which innovative programs could be approved, including school year restructuring, alternative learning environments, parental literacy, decentralization of organizational decisions, instructional technology, student and parental choice among public schools, child care, early childhood education, an extended school day, teacher and administrator development, continuous progress education, student-teacher ratios below 22:1 in elementary grades, use of elementary school guidance counselors and social workers in dropout prevention programs, career development for students, bilingual training, parental involvement with schools, school-age latch-key children, private-sector volunteer efforts, coordination of school activities with community health and human services programs, magnet schools, interdisciplinary curriculum, peer tutoring, counseling of families of at-risk students, and comprehensive

coordination with health and human service delivery systems.

Authority of principals. School principals, who currently participate in the selection of teachers, would approve all teacher and staff appointments from a pool of applicants selected by the district or who meet hiring requirements established by the district and based on criteria developed by the principal after informal consultation with the faculty. A principal's appraisal would include campus performance.

Hearing officers. School boards would be permitted to designate an impartial hearing officer to develop a record concerning nonrenewal of a teacher's contract. The board would make its decision on the nonrenewal based on a review of the record developed by the hearing officer and on oral arguments by the teacher and the district.

Alcohol and drug abuse programs. The Commission on Alcohol and Drug Abuse (CADA) would provide a statewide peer assistance and leadership system and a full-time peer program coordinator for each regional education service center. TEA and CADA would design a substance abuse assessment and intervention program for the public schools.

Exemption from compulsory attendance SB 1 would exempt from compulsory attendance children enrolled in GED courses who were at least 17 years old, or who were 16 years old and were enrolled at the recommendation of a public agency with supervision over them.

Single-member districts for Austin ISD. The Austin ISD would be required to elect a nine-member school board -- seven elected from single-member districts and two (the president and vice-president) elected at-large. (The Austin ISD currently elects seven members, all at-large.) To include the Austin ISD, the minimum student population requirement for mandatory single-member districts would be lowered from 66,000 to 64,000.

School district land development standards. At the request of a school district, a city that has annexed territory for limited purposes would have to enter an agreement concerning revenue fees, review periods, land development standards and alternative water pollution

control methodologies for school buildings. If no agreement were reached within 120 days, the matter would be submitted to an independent arbitrator. When adding temporary classroom buildings to existing campuses, a district would be exempt from all land development ordinances.

Accountability -- Article 2

Commissioner of education. The governor would appoint or reject a nominee for commissioner of education recommended by the SBOE. The SBOE would continue to nominate potential commissioners until one was approved by the governor. The commissioner's appointment would have to be confirmed by the Senate.

The governor could remove the commissioner, with the consent of the Senate, at the request of two-thirds of the SBOE or for good cause. The commissioner would serve a four-year term, with the first new term beginning March 1, 1991 and expiring March 1, 1995.

State Board of Education. The governor would continue to appoint the chair of the SBOE, but with the advice and consent of the Senate.

The SBOE would no longer be the policy-making and planning body for public education. In addition to its duties under the state Constitution, the SBOE would implement legislative policy on public education. It would be required to consider any comments made by the Legislature prior to adopting rules and to cite legislative authority for its actions.

The SBOE no longer would have authority to propose education budgets to the Legislature. Its authority to adopt the state public education operating budget would be transferred to the commissioner of education. The commissioner would be required to submit the proposed budget to the SBOE and the Legislative Education Board (LEB) for review prior to presenting it to the governor and the Legislative Budget Board.

The LEB would determine legislative intent concerning public education laws. If the LEB found SBOE rules in conflict with legislative intent, it could request more information from the SBOE, seek a meeting with the SBOE to resolve conflicts, ask the SBOE to reconsider its action, or notify the governor, the lieutenant

governor, the speaker and the Legislature of the conflict.

The LEB would oversee and review the implementation of education policy made by state agencies concerning fiscal matters, academic expectations, and evaluations of program cost effectiveness. The LEB could appoint advisory committees and hire its own staff or use staff of the Legislative Council or the LBB. Any staff hired by the LEB would have to be available to all legislators.

Performance reports. Starting in September 1991, each school board would be required to make public an annual report for each campus in the district on the progress the campus had made toward achieving its stated goals. The school principal -- with the aid of the professional staff of each campus, parents and community members -- would set the performance objectives, which would have to be approved by the school board.

The performance report would have to compare the performance of each campus to that of campuses with similar wealth and demographics and compare the district to other school districts. Comparisons would have to include attendance and dropout rates, instructional and administrative costs and performance on all of the academic excellence indicators adopted by the SBOE.

The school board would have to hold a hearing for public discussion of the report. After the hearing the report would have to be widely disseminated within the district in a manner determined by the board.

Professional staff involvement. School boards would be required to set policies for involvement of professional staff in establishing and reviewing the district's objectives and goals. The board would be required to hold regular meetings with professional staff representatives. The staff representatives would be elected by the professional staff; two-thirds of the elected representatives would have to be classroom teachers. The board would not be prohibited from meeting with other groups or teachers, and its power to manage and govern would in no way be affected or limited. Nothing in the new provision could be

construed as creating a new cause of action or as requiring collective bargaining.

Accreditation and academic excellence indicators.
Adequate performance based on academic excellence indicators, which would be adopted by the SBOE by Jan. 1, 1991, would be the main consideration in rating school districts for accreditation purposes. The indicators would include achievement test results, national comparative test results, high-school graduation rates, student attendance, enrollment in advanced academics classes and the differences in the aforementioned indicators from year to year while considering student mobility. Performance on the indicators would be compared to a projection of expected performance for purposes of evaluation, accreditation and determination of exemplary status. The indicators would be reviewed every two years by the Educational Economic Policy Center.

The TEA annually would review the performance of each district and campus on the academic excellence indicators, including on-site evaluation of a limited number of campuses within a district if necessary, and would determine if any specific action were warranted. It would rate each school campus in a district based on the performance of the campus on the academic excellence indicators.

A new criterion for school district accreditation would be the relation between the academic excellence indicators and the campus performance objectives established by each school. The manner in which campus performance objectives were established and the progress of a campus in meeting the objectives would be evaluated.

Effective use of technology to enhance student achievement and the effectiveness of a district's campuses based on the most current criteria identified by research on effective schools would be added to the criteria for accreditation rating. Current accreditation criteria that would be eliminated would include the correlation between student grades and performance on standardized tests, paperwork reduction efforts, board member training, effectiveness of attendance improvement efforts, drug abuse prevention program effectiveness, and parental and community involvement.

An accreditation rating of "academically unaccredited" would replace the ratings of "warned" and "unaccredited." (The standards would be "exemplary," "recognized," "accredited," "accredited advised" and "academically unaccredited.") The current provision that limits the percentage of districts rated "exemplary" to 40 percent of districts rated "recognized" would be deleted. The accreditation rating of a district or campus could not be lowered solely on the basis of size.

Unaccredited school districts and campuses. The commissioner of education could impose accreditation sanctions against individual campuses within a district, including ordering the district board to take certain actions relating to campus operations or appointing a master or management team to oversee the operation of the campus.

Oversight by a management team, annexation to another district or operation of the district by the state would be added to possible sanctions for districts that fail to meet accreditation criteria. A district rated "academically unaccredited" for two years would be annexed to another district or become a state-operated district.

The commissioner could order one or more school districts to annex a school district that had been unaccredited for two years. The district could not be joined to another district unless a prior educational and financial impact study had found that annexation would have no adverse impact on the receiving district. The local fund assignment of the receiving district would be reduced, for five years, based on the proportionate increase in its student population. A receiving district would be entitled to additional state aid to cover the amount by which its additional annual debt service due to assuming the debts of the annexed district exceeded the adjustment in its local fund assignment. However, the revenue raised by the receiving district in levying its current debt-service tax rate on property in the annexed district would be subtracted from its extra state aid.

A school board could be suspended, and the district operated by the state, if the district were academically unaccredited for two years. A

state-operated school would be run by an appointed board of managers and district superintendent.

State-mandated norm-referenced test. The SBOE would be required to adopt a nationally recognized norm-referenced (comparative) test that would be taken by all students in the fourth, sixth, eighth, and 10th grades, beginning in the 1991-92 school year. The tests would cover reading, mathematics, language arts, science and social studies, measuring the application of higher-order thinking skills appropriate for the age and grade of the students. The normative data used would have to fairly represent all minority and socio-economic groups. The state would be required to pay for all test costs. (The state-mandated criterion-referenced test, which includes a norm-referenced section, currently is required in the third, fifth, seventh, ninth and 11th or 12th grades).

Comptroller review of school districts. The comptroller would be allowed to review periodically the effectiveness and efficiency of school-district budgets and operations.,

Minority recruitment programs. The education commissioner and the Texas Higher Education Coordinating Board would be required to create a program to assist recruitment of minorities into education. The program could include tuition or grant programs and other programs, such as mentor programs and job fairs, to encourage minorities to become professional educators.

Teaching practices. Training in the use of technology and modern classroom teaching practices would be required for teacher certification. Beginning Jan. 1, 1991, all appropriate educational entities that train teachers, such as institutions of higher education, regional education centers and teacher centers, would be required to provide training in the use of technology and modern classroom teaching practices.

Appeals of no-pass, no-play suspension. A student suspended from extracurricular activities because of a failure to make a grade of 70 on a scale of 100 in one class could appeal the suspension to the commissioner of education. An appeal would not be considered contested if the issues involved the student's grade or the school district's grading policy. The

commissioner's decision could not be appealed except on grounds that the decision was arbitrary or capricious. No new evidence could be introduced on appeal.

Voiding administrative rules. Certain administrative rules previously adopted by the State Board of Education and currently found in Title 19 of the Texas Administrative Code would be voided. Chapters 29 through 74 and Chapters 76 through 93, covering areas such as the structure of the Texas Education Agency, State Board of Education (SBOE), the Office of the Commissioner, certain requirements for school districts, regulation of private and proprietary schools, and requirements for bilingual education, driver education, media services, textbook adoption, transportation, early childhood, adult education, gifted and talented student programs, compensatory education and career education, adopted as of the effective date of the bill (Sept. 1, 1990) would be void as of June 1, 1991.

All rules under Chapters 94 through 133 adopted by the SBOE before Sept. 1, 1991, covering areas such as accreditation, student testing, Foundation School Program calculations, budgeting, reporting and auditing of school districts, federal funding, salaries, student attendance and student discipline, would be void as of June 1, 1992.

All rules under Chapters 134 through 181 adopted by the SBOE before Sept. 1, 1992, covering areas such as teacher education, teacher certification, minimum teaching duties, paperwork reduction, personnel rights and development, hearings and appeals, relationship with the federal government and the University Interscholastic League, the rulemaking process and hearings and appeals, would be void as of June 1, 1993.

Rules under Chapter 75, concerning curriculum, would not be voided, except that SBOE rules under Chapter 75 concerning teaching time and methodology, adopted prior to the effective date of the bill, would be voided as of Sept. 1, 1990.

Performance incentives and tuition grants -- Article 4

Exemptions for exemplary districts and campuses. School campuses or districts with the top accreditation rating of "exemplary" would be exempt from all state education requirements and prohibitions, with some specific exceptions.

Waivers for student achievement. Any school campus or district could apply to the SBOE for a waiver of a state requirement or prohibition that inhibits student achievement. A waiver application would have to include a written plan, approved by the district board and developed by the principal or superintendent with the faculty of the campus or district, stating achievement objectives and how the state requirement or prohibition inhibits the objectives.

Limits on exemptions and waivers. The SBOE could grant a waiver for not more than three years. At the end of that period, if the campus or district had fulfilled its achievement objectives, the SBOE could grant an exemption from the waived prohibition or requirement. The exemption would remain in effect unless the SBOE determined that achievement levels had declined.

In considering exemptions or waivers, the SBOE would provide as much regulatory relief as practical and reasonable, beginning in the 1990-91 school year. The Texas Education Agency would monitor and evaluate deregulation of campuses and districts and report annually on the effect on student achievement to the SBOE, the LEB, the governor, the lieutenant governor, the speaker and the Legislature.

A campus or district could not receive an exemption or waiver from state requirements or prohibitions concerning: (1) curriculum essential elements (except the methodology used by a teacher and time spent by a teacher or student on a particular task or subject); (2) restrictions on extracurricular activities; (3) health and safety; (4) competitive bidding; (5) school class-size limits; (6) removal of disruptive students from the classroom; (7) suspension or expulsion of a student; (8) at-risk programs; (9) prekindergarten programs; (10) minimum graduation requirements; or (11) employee rights and benefits. Also, a campus or district could not be exempted from criminal laws or

federal laws or rules, including special education or bilingual education requirements.

The commissioner of education could exempt an exemplary campus from elementary size limits (currently 22 students per teacher for kindergarten through fourth grade) if the campus submitted a written plan showing that the exemption would not be harmful to the academic achievement of students on the campus. The commissioner would review achievement levels annually, and the exemption would remain in effect until the commissioner determined that achievement levels have declined.

A district or campus could not automatically be exempted from state textbook-selection requirements but could receive a waiver of those requirements. A district or campus receiving a waiver would be allowed to select for purchase a textbook not on the state-adopted multiple list. The textbook could not cost more than the most expensive book on the state-approved list and would be used for the same number of years as a state-approved textbook. The district would purchase the textbook, and the education commissioner would calculate and transmit to the district from the State Textbook Fund the allowable cost of the book.

Curriculum limits. The SBOE would adopt rules implementing curriculum requirements, but it could not designate the methodology to be used by a teacher or the time to be spent by the teacher or a student on a particular task or subject.

College credit. The commissioners of education and higher education would be required to develop recommendations, by Feb. 1, 1991, for a statewide program that would allow high school students to take college courses for both high school and college credit. The recommendations would include a method for apportioning state funds for the student's education between the high school and the college.

Texas tuition assistance grant program. A Texas Tuition Assistance Grant Program would be established to provide money grants to pay student tuition at Texas public or private institutions of higher education, starting in fall 1991. The higher education coordinating board would set student eligibility

requirements by Jan. 1, 1991; eligible students would include Texas residents from low- or middle-income families with financial need, enrolled in a full course load, who have applied for financial assistance and have graduated from high school within the prior two years with an 80 or higher grade average. Graduate students and persons convicted of felonies or crimes involving moral turpitude and within less than two years of their parole or probation would not be eligible.

The coordinating board would make the grants, up to the total amount appropriated for the program, to the institutions, not to the individual students. Students would lose the right to future grants if they did not make steady progress toward a baccalaureate degree, did not maintain full-time enrollment status for at least two semesters in any academic year, had a grade average in the lower 50 percent of full-time students at the institution or were convicted of a felony or crime of moral turpitude and were within less than two years of their probation or parole.

Authorization for the Texas Assistance Grants Program, created in 1975 but never funded, would be repealed.

Year-round schools -- Article 5

Schools would be allowed to operate on a multi-track school year, with groups ("tracks") of students and teachers taking vacation on a staggered schedule throughout the year.

A provision in current law that a school term may not begin earlier than the Monday of the calendar week in which Sept. 1 falls would be repealed, allowing the school term to begin at any time (included under Article 4).

**SUPPORTERS
SAY:**

SB 1 represents a bipartisan compromise negotiated by the governor, the lieutenant governor, the speaker and House and Senate leaders to improve public education in Texas and avoid a takeover of the school finance system by the courts. It would make the school finance system more equitable, ensuring substantially equal access to similar revenues for similar tax effort for the vast majority of the students in the state. By complying with the Supreme Court's requirements in the Edgewood ISD v. Kirby decision, the bill would avoid

the possibility that the court-appointed special master will determine how public education will be financed in Texas. SB 1 also would significantly change how public education is run in Texas, so that taxpayers will be assured of a more efficient, accountable system.

SB 1 would make several significant improvements in the finance provisions of the conference report that was vetoed by the governor during the last special session. Future legislatures would not be bound forever by unintelligible formulas, but would be free to use other methods to preserve fiscal neutrality in the future. The confusing reliance on a percentage of a percentile to determine guaranteed-yield funding would sunset in 1995, after which the maximum guaranteed yield per weighted ADA would reflect the actual cost of an exemplary program.

The current, unnecessarily complex system of weights would give way to program-cost differentials that would be expressed in dollar amounts. The differentials would be based on the actual extra cost of a course or program, rather than the characteristics of the students in the program, and would include adjustments for expensive academic courses like chemistry as well as bilingual education and vocational education. The discriminatory PDI that unjustly enriches property-rich, large urban districts would be replaced by a cost-of-education index that would accurately reflect extra costs beyond the control of school districts. To ensure that weights are reformed, if the program-cost differentials and cost-of-education index developed by the LEB and LBB were not adopted, all weights would be removed from the calculation of guaranteed-yield distributions.

The cost of the bill would be \$22 million lower than that of the conference report vetoed last session, allowing the first year of school-finance reform to be funded without imposing any greater burden on taxpayers than absolutely necessary to satisfy the courts. Districts would be held harmless from any reduction in state aid in the coming year in order to give them time to adjust to the new system. Funding for facilities would be added in the future, after completion of a thorough inventory of current facilities, to ensure that any state aid would be distributed efficiently.

SB 1 would achieve reasonable equity in school funding, without triggering new suits by wealthy districts that would be discriminated against by caps on local revenue. It would be impossibly expensive bring all districts up to the level of the most wealthy and it would be destructive to bring down the spending of districts with large tax bases.

The bill would streamline and reform the administration of public education. The Legislature and the governor would be directly accountable for the setting of education policy as well as for education finance. Allowing the governor to appoint the commissioner of education, with the consent of the Senate, would establish clear, unambiguous lines of communication and authority. The commissioner would not longer be caught in a political crossfire but could serve in a direct chain of command to make education policy more coherent. The State Board of Education would maintain a strong voice in education policy; the governor could not appoint a commissioner who had not been recommended by the board.

OPPONENTS
SAY:

SB 1 fails to comply with the clear mandate handed down by a unanimous Supreme Court: "A band-aid approach will not suffice; the system itself must be changed." This bill would not make the changes in school finance needed to withstand judicial scrutiny; it would condemn the state to court control of our schools for years to come.

The bill does not address the fundamental causes of the large inequities in tax rates and expenditures among school districts. The tax base available to each district would not be enlarged, so that property wealth of the rich districts would not be shared with the poor. Rich districts still would be able to enrich their educational programs with an unlimited third tier of unequalized expenditures outside the state-aid program; as in the past, a newly equalized system would quickly be skewed by wealthy districts tapping their valuable tax bases.

The Supreme Court specifically addressed the need to remedy unequal access to adequate school facilities, but all SB 1 would offer is another study. The facilities-grant program proposed by the bill would be for one year only and just for emergencies.

The elimination of the 95th percentile standard of equity after 1995, and the express invitation to future legislatures to change the provisions of SB 1, would wave red flags in the court's face, begging for judicial intervention to ensure future compliance with the Supreme Court's mandates. Even if the proposals of SB 1 were adequate to satisfy the Edgewood requirements, unless the system is self-adjusting to maintain equity into the indefinite future, the court will be forced to maintain surveillance over the Legislature to ensure fair treatment of our schoolchildren.

A quality education for all students does not come cheap, but if the state is unwilling to pay the cost now, it will bear the cost of an uneducated population for years to come in expenditures for welfare and prisons and as the state's economic development is hindered by an uneducated workforce. Even if this bill were fully funded for five years, Texas would still rank well below the national average in education expenditures per pupil.

The SBOE, which is chosen by the voters to run the state's education system, should continue to appoint and dismiss the education commissioner. The elected board would be stripped of much of its authority, which would be transferred to an appointed official, the commissioner, who would no longer be accountable to the board. Appointment of the commissioner should not become a political football in a scramble among the governor, the SBOE and the Senate.

NOTES:

Comparison of SB 1, sixth special session, with
the conference report for SB 1, fifth special session

SB 1, sixth special session, is very similar to the conference report for SB 1 approved during the fifth special session and vetoed by the governor, with some exceptions.

Neither the conference report nor SB 1 would make an appropriation. In the fifth special session, SB 56 by Caperton would have appropriated an additional \$555 million for public education for fiscal 1990-91. SB 56 also would have amended the school-finance provisions contained in the conference report for SB 1. In the current session, SB 11 by Brooks and Caperton would

appropriate \$528 million for public education, plus \$100 million for human services.

The conference report would have limited the maximum per-pupil state and local revenue guaranteed under the guaranteed-yield program to between 90 percent and 100 percent of the revenue of the district at the 95th percentile of state and local revenue per pupil. The House version of SB 56, which would have amended the conference report, would have raised the lower limit to 95 percent of the revenue of the district at the 95th percentile of revenue. (The Senate version of SB 56 would have set the lower limit at 100 percent.) SB 1 would set the lower limit at 95 percent of the revenue of the district at the 95th percentile of revenue.

Under SB 1, the guaranteed-yield-revenue limits would be in effect for the 1993-94 and 1994-95 school years only. The limit in the conference report would not have expired.

The conference report would have required the LEB and FSFBC to set the guaranteed-yield level and district enrichment tax rate using the yield of the district at the 90th percentile by wealth per weighted student. SB 1 would require a calculation using a yield not less than that of the district at the 90th percentile of wealth per weighted student.

If the FSFBC failed to adopt program-cost differentials by April 1 for the following year, SB 1 would require the commissioner of education to adopt program-cost differentials. If the cost-of-education index and program-cost differentials were not adopted by the FSFBC or the commissioner of education, SB 1 would distribute guaranteed-yield revenues according to unweighted students, rather than weighted students. The conference report did not contain similar provisions.

SB 1 would require program-cost differentials recommended after accountable-cost studies, adopted by the LEB or the FSFBC, to be stated as dollar amounts as well as weights applied to the basic allotment. The conference report did not contain a similar requirement.

SB 1 would allow children to enroll in prekindergarten at age three, rather than age four. The conference

report would not have lowered the age for pre-K eligibility.

SB 1 would state that future legislatures are free to use other methods to achieve substantially equal access to similar revenues per student at similar tax effort. The conference report did not contain a similar statement.

SB 1 would add a requirement, not contained in the conference report, that the LEB and LBB would be required to consider the results of the efficiency-in-administration report prepared by the commissioner of education. SB 1 would require districts to file their five-year plan for technology allotments to the TEA and the Department of Information Resources; the conference report would require filing only with the TEA.

SB 1 would allow the governor to appoint, with the advise and consent of the Senate, a commissioner of education nominated by the SBOE. The governor would have the power to remove the commissioner, with the consent of the Senate, for good cause or on petition of two-thirds of the members of the SBOE. The conference report would have continued to allow the SBOE to appoint the commissioner, although it would have required Senate confirmation; the commissioner also would have continued to serve at the will of the SBOE.

SB 1 would require that the degree of change from year to year in the five required academic excellence indicators be added to the list of required indicators. The degree of change would have to take into consideration student mobility.

SB 1 does not include the six public education goals listed in the conference report.

SB 1 would exempt exemplary school campuses and districts from state education requirements and prohibitions. The conference report would have exempted exemplary school campuses and districts from certain state education requirements and prohibitions designed by the SBOE with the advice of the LEB.

SB 1 would allow the commissioner of education, rather than the SBOE as in the conference report, to exempt exemplary campuses from elementary class-size limits.

Comparison of SB 1, sixth special session, and the plan submitted by the court-appointed master

William Kilgarlin, the master appointed by Judge McCown to propose a school-finance plan to be adopted by the court in the absence of a legislative enactment, released a preliminary draft plan on June 1. The plan would affect the 1990-91 school year only and would use only the funds now appropriated for the Foundation School Program.

The master's plan would be a single-tier guaranteed-yield plan with a required minimum participation. SB 1 would not change the structure of the current Foundation School Program, which has two tiers -- the first determined by a basic allotment adjusted by certain formula weights and the second a guaranteed-yield program.

The master's plan would provide equalization for 90 percent of students to a spending level of the 95th percentile of revenue per unweighted student (based on current-law estimates for 1990-91). SB 1 would provide equalization for at least 90 percent of students to a spending level of at least 95 percent of the 95th percentile of revenue per pupil.

The tax rate necessary to maximize state aid under the master's plan would be \$1.25. The tax rate to maximize state aid under SB 1 would be 91 cents in 1990-91 and \$1.18 in later years. The minimum tax rate required to participate in the Foundation School Program would be 75 cents under the master's plan. Under SB 1, the minimum tax rate would be 54 cents for 1990-91, rising to 70 cents in 1994-95.

The master's plan would distribute Available School Fund (ASF) allocations according to financial need within each county. SB 1 would not change current law, which distributes the ASF on a per-pupil basis (\$303 per pupil in 1989-90).

The master's plan would change the Price Differential Index (PDI) and apply it fully in the distribution of state aid. The net effect of the change would be to reduce the percentage of state funding allocated under the PDI. SB 1 would not change the current calculation

of PDI or the use of half the PDI in the calculation of guaranteed-yield revenue.

The master's plan offered the court the option of a capping the local enrichment funds that property-rich districts could raise at the equalized program level, plus 10 percent (with an adjustment for high levels of existing debt service). SB 1 does not propose limiting local enrichment.

Article 2 of SB 11 by Brooks and Caperton, approved by the Senate and reported favorably, without amendment, by the House Appropriations Committee on June 5, would appropriate an additional \$528 million to finance the provisions of SB 1 during fiscal 1990-91. Included in the \$528 million would be an additional \$456,629,020 for the state share of the Foundation School Program, \$61,290,980 for the "hold harmless" provision, \$5 million for the statewide inventory of school facilities, \$5 million for the new Public Education Development Fund and \$80,000 for management and leadership training programs for education administrators.

HB 6 by Hury, approved by the House and Senate on June 5, would raise an additional \$511.4 million in general revenue by increasing the state sales-tax rate from 6 percent to 6.5 percent, increase the cigarette tax from 26 cents per pack to 41 cents, increase the tax on other tobacco products and raise the mixed-drink tax rate from 12 percent of gross receipts to 14 percent. HB 6 would not take effect unless SB 1 becomes law.